IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1660 OF 2004

Mahavir Devappa Mangave ... Petitioner

versus

Shri Bahubali Zilla Nagari
Sahakari Patsanstha Ltd.
and another ... Respondents

...

Mr. Vijay Killedar, for the Petitioner.
Mr. Uday Warunjikar, for Respondent No.1.
Mr. K.V. Saste, A.P.P., for Respondent No.2.

...

CORAM : A.M.KHANWILKAR,J.

18th January 2005

P.C.:

1. Affidavit of undertaking has been filed by the Applicant before this Court sworn on 13th January 2005. According to Mr. Warunjikar, the assurance given in the affidavit is conditional one. In my opinion, fair reading of the affidavit shows that all that is mentioned is

that the Applicant will take some time to organise for balance amount of Rs.22,000/-. It is not a conditional offer. Be that as it may, as Mr. Warunjikar submits that several adjournments have been granted, no fruitful purpose will be served by adjourning the matter for two months hence. In the circumstances, at the request of Mr. Warunjikar, matter is heard on merits.

2. Heard Counsel for the parties. The order, which is questioned in this petition is passed on application preferred by the Petitioner for sending the disputed signature to the handwriting expert. The Court has considered that aspect and is of the view that at this stage, it is unnecessary to take recourse to that option. Instead, it will be open to the accused to adduce defence evidence in support of his plea. That is a possible view. In the circumstances, it is not necessary to interfere at this interlocutory stage.

3. It will be open to the lower Court to examine the contention in the context of section

73 of the Evidence Act at the appropriate stage.

4. Disposed of on the above terms.